

House File 669 - Introduced

HOUSE FILE _____
BY COMMITTEE ON ENVIRONMENTAL
PROTECTION

(SUCCESSOR TO HSB 86)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to enforcement of certain solid waste disposal
2 requirements and providing civil penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1401HV 82
5 tm/je/5

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1 1 Section 1. Section 455D.10A, subsection 5, Code 2007, is
1 2 amended by striking the subsection.

1 3 Sec. 2. Section 455D.11, subsection 9, Code 2007, is
1 4 amended by striking the subsection.

1 5 Sec. 3. Section 455D.11I, subsection 7, Code 2007, is
1 6 amended to read as follows:

1 7 7. The department shall adopt rules ~~including imposition~~
~~1 8 of civil penalties~~ necessary for the implementation and
1 9 administration of this section.

1 10 Sec. 4. Section 455D.11I, subsection 8, Code 2007, is
1 11 amended by striking the subsection.

1 12 Sec. 5. Section 455D.19, subsection 2, paragraph a, Code
1 13 2007, is amended to read as follows:

1 14 a. "Distributor" means a person who takes title to one or
1 15 more packages or packaging components purchased for
1 16 promotional purposes or resale. A person involved solely in
1 17 delivering or storing packages or packaging components on
1 18 behalf of third parties is not a distributor.

1 19 Sec. 6. Section 455D.19, subsection 3, Code 2007, is
1 20 amended to read as follows:

1 21 3. A manufacturer or distributor shall not offer for sale
1 22 or sell, or offer for promotional purposes a package or
1 23 packaging component, in this state, which includes, in the
1 24 package itself, or in any packaging component, inks, dyes,
1 25 pigments, adhesives, stabilizers, or any other additives, any
1 26 lead, cadmium, mercury, or hexavalent chromium which has been
1 27 intentionally introduced as an element during manufacturing or
1 28 distribution as opposed to the incidental presence of any of
1 29 these elements and which exceed the concentration level
1 30 established by the department. A distributor shall only be
1 31 subject to the assessment of a civil penalty pursuant to
1 32 section 455D.25, subsection 2, for the knowing violation of
1 33 this section. Knowledge by the distributor of the violation
1 34 shall be presumed beginning thirty days from the receipt of
1 35 notification from the department.

2 1 Sec. 7. Section 455D.19, subsection 8, Code 2007, is
2 2 amended by striking the subsection.

2 3 Sec. 8. NEW SECTION. 455D.22 CIVIL PENALTY.

2 4 A person who violates section 455D.6, subsection 6, section
2 5 455D.11, 455D.11A, 455D.11B, 455D.11I, or 455D.19, or any
2 6 rule, permit, or order issued pursuant thereto shall be
2 7 subject to a civil penalty which shall be established,
2 8 assessed, and collected in the same manner as provided in
2 9 section 455B.109. Any civil penalty collected shall be
2 10 deposited in the general fund of the state.

2 11 Sec. 9. NEW SECTION. 455D.23 VIOLATIONS.

2 12 The director may issue any order necessary to secure
2 13 compliance with or prevent a violation of the provisions of
2 14 this chapter or any rule adopted or permit or order issued
2 15 pursuant to this chapter. The person to whom such compliance
2 16 order is issued may cause to be commenced a contested case
2 17 within the meaning of chapter 17A, by filing within thirty

2 18 days a notice of appeal to the commission. On appeal, the
2 19 commission may affirm, modify, or vacate the order of the
2 20 director.
2 21 Sec. 10. NEW SECTION. 455D.24 JUDICIAL REVIEW.
2 22 Judicial review of any order or other action of the
2 23 commission or director may be sought in accordance with the
2 24 terms of chapter 17A. Notwithstanding the terms of chapter
2 25 17A, petitions for judicial review may be filed in the
2 26 district court of the county in which the alleged offense was
2 27 committed.

2 28 Sec. 11. NEW SECTION. 455D.25 CIVIL ACTIONS FOR
2 29 COMPLIANCE == PENALTIES.

2 30 1. The attorney general, on request of the department,
2 31 shall institute any legal proceedings necessary to obtain
2 32 compliance with an order of the commission or the director,
2 33 including proceedings for a temporary injunction, or
2 34 prosecuting any person for a violation of an order of the
2 35 commission or the director or the provisions of this chapter
3 1 or any rules adopted or permit or order issued pursuant to
3 2 this chapter.

3 3 2. Any person who violates section 455D.10A, 455D.11,
3 4 455D.11A, 455D.11B, 455D.11I, or 455D.19, or any order or
3 5 permit issued or rule adopted pursuant to section 455D.6,
3 6 subsection 6, section 455D.10A, 455D.11, 455D.11A, 455D.11B,
3 7 455D.11I, or 455D.19, shall be subject to a civil penalty, not
3 8 to exceed ten thousand dollars for each day of such violation.

3 9 EXPLANATION

3 10 This bill relates to enforcement of certain solid waste
3 11 disposal requirements.

3 12 The bill eliminates a civil penalty provision relating to
3 13 heavy metal in household batteries, waste tire disposal, and
3 14 registration of waste tire haulers.

3 15 For purposes of restrictions relating to heavy metal
3 16 content in packaging, the bill excludes a person who solely
3 17 stores packages or packaging components on behalf of third
3 18 parties from being considered a distributor. The bill also
3 19 provides that a distributor is only subject to the assessment
3 20 of a civil penalty for the knowing violation of the
3 21 restrictions. The bill provides that knowledge by a
3 22 distributor of a violation is presumed beginning 30 days from
3 23 the receipt of notification from the department of natural
3 24 resources.

3 25 The bill provides that a person violating Code sections
3 26 relating to the disposal of white goods and waste oil, waste
3 27 tire disposal and financial assurance, registration of waste
3 28 tire haulers, and heavy metal content in packaging shall be
3 29 subject to civil penalties.

3 30 The bill provides that the director of the department of
3 31 natural resources may issue an order to secure compliance with
3 32 or prevent a violation of a provision of Code chapter 455D.

3 33 The bill provides that judicial review of any order or
3 34 other action of the environmental protection commission or the
3 35 director under Code chapter 455D may be sought in accordance
4 1 with Code chapter 17A.

4 2 The bill provides that the attorney general, on request of
4 3 the department, shall institute legal proceedings necessary to
4 4 obtain compliance with an order of the commission or director
4 5 or prosecute any person for a violation of an order of the
4 6 commission or the director or the provisions of Code chapter
4 7 455D.

4 8 The bill provides that civil penalties assessed for certain
4 9 violations of Code chapter 455D shall not exceed \$10,000 for
4 10 each day of such violation.

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